REMARKS

Upon entry of the amendments, claims 1-11, and 13-20 are pending in the above-identified application. Claims 1, 10, 11 and 20 have been amended. Applicants submit that the amendments are supported throughout the specification as originally filed, and therefore, no new matter is added by these amendments. Claim 12 has been cancelled without prejudice or disclaimer.

It is submitted that the amendments do not require a new search or consideration because the amendments merely clarify the claimed subject matter or include elements already present elsewhere in the pending claims, and do not change the subject matter under consideration. The amendments do not add more claims than were finally rejected and, it is submitted, place the claims in condition for allowance, or in better condition for appeal. As such, it is respectfully requested that the amendments be entered.

Rejections Under 35 U.S.C. § 103(a)

Claims 1-20 have been rejected as unpatentable over Bianco *et al.* (US 2002/0092965) in view of McMenimen *et al.* (US 2002/0077850) under 35 U.S.C. § 103 (a).

Applicants initially point out, as previously made of record, that neither Bianco *et al.* (US 2002/0092965) nor McMenimen *et al.* (US 2002/0077850) qualify as prior art under 35 U.S.C. § 102 because both references were filed after the filing date of the present application. While the Examiner has specifically cited provisions of the McMenimen priority document, the Examiner continues to cite to Bianco *et al.* (US 2002/0092965), which is not prior art, rather than the Bianco priority document. In response to Applicants prior remarks, the Examiner states that Applicants have not established which part of Bianco or McNenimen relied on in the rejection of the claims are not supported by the respective corresponding provisional applications (Office Action mailed 7/12/2006, page 3). Thus, the Examiner appears to request that the Applicants determine whether or not there is any evidence to support the rejection. Applicants point out, however, that it is the responsibility of the Examiner, not the Applicant, to bear the initial burden

of establishing *prima facie* obviousness, including identifying each and every element of the claims in the prior art. It is well established that "if the Examiner does not produce a *prima facie* case, the Applicant is under no obligation to submit evidence of nonobviousness." See, e.g., MPEP §2142, 2143. As such, Applicants submit that the Examiner has failed to establish *prima facie* obviousness for failing to factually support the allegation that each and every element of the presently claimed invention is found in the prior art.

Nevertheless, in order to be fully responsive to the Office action, Applicants will address the rejections as they may apply to Bianco priority document U.S. provisional patent application no. 60/212,576 (hereafter "Bianco") and McMenimen priority document U.S. provisional patent application no. 60/180,289 (hereafter "McMenimen"). While Applicants do not concede these priority documents as prior art, they are addressed herein as the respective filing dates predate the filing date of the present application.

Although Applicants respectfully disagree with the rejections and do not acquiesce to any reasoning provided by the Examiner, claims 1, 10, 11 and 20 have been amended in order to clarify certain differences between the present invention and the cited references, and in order to further expedite prosecution of the present case. Claim 12 has been canceled without prejudice or disclaimer. As amended, claim 1 is directed to a system adapted to support dental patient scheduling, comprising a network to communicate information relating to a manufacturing stage, one or more patient computers coupled to the network, and a server coupled to the network, the server configured to automatically communicate manufacturing progress information with the patient computer and to perform patient scheduling when one or more dental appliances reach a predetermined manufacturing progress. Applicants respectfully submit that the cited references, either alone or in combination, fail to teach or suggest each and every element of the presently claimed invention, thereby precluding prima facie obviousness.

Bianco is directed to an on-line guide to help patients recover from major medical procedures. However, Bianco fails to teach a server that is configured to automatically communicate manufacturing progress information with a patient's computer or to perform patient scheduling when one or more dental appliances reach a predetermined manufacturing progress,

as recited in claim 1. Nowhere does Bianco address dental products or teach monitoring a manufacture process of any product whatsoever, and Bianco certainly does not teach coordinating dental product manufacture with patient scheduling with an orthodontic professional.

In fact, a review of Bianco did not find any teaching of a server configured to perform patient scheduling in the first place. With regard to scheduling functions, even the provisions of the subsequently filed Bianco US 2002/0092965 publication that were inappropriately cited by the Examiner do not teach performing patient scheduling, but are instead limited to a system with "post-event sets of files including a task file that instructs the patient to perform a predetermined task" such as scheduling an appointment (see, e.g., Bianco US 2002/0092965 paragraph 0016). Thus, rather than the system or server actually performing or even coordinating the patient/professional scheduling, the system of Bianco, at best, merely reminds the patient to conduct the scheduling activity themselves.

McMenimen does not cure the deficiencies of Bianco. McMenimen does not even address patient scheduling, but instead is directed to an interactive manufacturing system for medical devices in which a manufacturing server interacts with data centers to collect information for various build-to-order scenarios. The Examiner cites to one line of the McMenimen provisional at page 2 (which is actually quite different from the rest of the application), as teaching that using the system of McMenimen "the patient and/or the ordering entity can monitor the status of the build process, expected completion, and shipment delivery status (~ FedEx Internet web site)." However, the system of McMenimen requires the patient/ordering entity to actively monitor, presumably after actively logging onto or otherwise actively engaging the McMenimen system or third party system, in order to check the shipment delivery status, etc. Thus, McMenimen does not teach automatically communicating or sending a message to the patient regarding manufacturing progress information, including when dental appliances reach a predetermined manufacturing progress. And the proposed combination would not provide the advantages of automatically and cost-effectively communicating manufacturing

information without requiring human operators to actively monitor and keep track of delivery information and/or physically communicate the status of the manufacturing process.

Furthermore, even if, for arguments sake only, one were to attempt to combine the references by employing the scheduling reminders taught by Bianco with the delivery status, etc. monitoring function of McMenimen (even though there appears to be no motivation to do so), the combination would appear to be limited to merely sending scheduling reminders that are not integrated with manufacturing and completely unrelated to manufacturing progress. Furthermore, the proposed combination would still require the patient to actively monitor the manufacture progress themselves, as McMenimen 's approach merely allows patients/ordering entities to monitor shipment delivery status, etc., such as by monitoring a third party's website (e.g., FedEx). The proposed combination would still not teach a server configured to automatically communicate manufacturing progress information with the patient computer and to perform patient scheduling when one or more dental appliances reach a predetermined manufacturing progress, as recited in claim 1.

Dependent claims 2-10 are allowable at least for depending from allowable independent claim 1. Claim 12 has been canceled without prejudice. Dependent claims 13-19 are allowable at least for depending from allowable independent claim 11.

Accordingly, for the reasons set forth above, Applicants respectfully request the withdrawal of the rejections of claims 1-11 and 13-20 under 35 U.S.C. § 103(a).
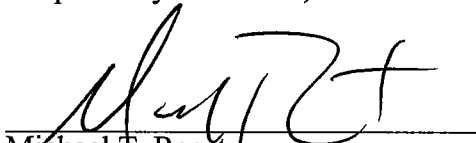
CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 206-467-9600.

Respectfully submitted,

Date: __10/12/2016__

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